

1 KEKER & VAN NEST LLP
ROBERT A. VAN NEST - # 84065
2 BRIAN L. FERRALL - # 160847
DAVID SILBERT - # 173128
3 MICHAEL S. KWUN - #198945
633 Battery Street
4 San Francisco, CA 94111-1809
Telephone: (415) 391-5400
5 Email: rvannest@kvn.com;
bferrall@kvn.com; dsilbert@kvn.com;
6 mkwun@kvn.com

SUSAN CREIGHTON, SBN 135528
SCOTT A. SHER, SBN 190053
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
1700 K Street NW, Fifth Floor
Washington, D.C., 20006-3817
Telephone: (202) 973-8800
Email: screighton@wsgr.com;
ssher@wsgr.com

7
8 JONATHAN M. JACOBSON, NY SBN 1350495
CHUL PAK (*pro hac vice*)
DAVID H. REICHENBERG (*pro hac vice*)
9 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
10 1301 Avenue Of The Americas, 40th Floor
New York, NY 10019-6022
11 Telephone: (212) 999-5800
Email: jjacobson@wsgr.com; cpak@wsgr.com;
12 dreichenberg@wsgr.com

13 Attorneys for Defendant ARISTA NETWORKS, INC.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 CISCO SYSTEMS, INC.,

18 Plaintiff,

19 v.

20 ARISTA NETWORKS, INC.,

21 Defendant.
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Case No. 5:14-cv-05344-BLF (NC)

**DECLARATION OF EDUARDO E.
SANTACANA IN SUPPORT OF
DEFENDANT ARISTA NETWORKS,
INC.'S ADMINISTRATIVE MOTION TO
FILE DOCUMENTS UNDER SEAL IN
CONNECTION WITH ARISTA'S
OPPOSITION TO CISCO'S MOTION TO
EXCLUDE EXPERT TESTIMONY FROM
ARISTA'S EXPERT CATE M. ELSTEN**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

1 I, EDUARDO E. SANTACANA, declare and state as follows:

2 1. I am an attorney licensed to practice law in the State of California and admitted to
3 practice before this Court. I am an associate at the law firm of Keker & Van Nest LLP and
4 counsel for Defendant Arista Networks, Inc. in the above-captioned action. I have personal
5 knowledge of the facts stated herein and, if called as a witness, I could testify competently
6 thereto.

7 2. Arista seeks to file under seal certain portions of its Opposition to Cisco's Motion
8 to Exclude Expert Testimony from Arista's Expert Cate M. Elsten. Because this Motion to Seal
9 relates to a non-dispositive motion, the documents and information that the parties request to file
10 under seal are not subject to a strong presumption of public access. *See Kamakana v. City & Cty.*
11 *of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). Rather, the "good cause" standard of Rule
12 26(c) of the Federal Rules of Civil Procedure applies to the material that Arista seeks to file under
13 seal. *Id.* at 1179. Civil Local Rule 79-5 further requires that a party seeking to seal information
14 and documents "establish[] that the document, or portions thereof, are privileged, protectable as a
15 trade secret or otherwise entitled to protection under the law." Civil L.R. 79-5(b). The sealing
16 request must also "be narrowly tailored to seek sealing only of sealable material." *Id.*

17 3. Arista seeks to file under seal the highlighted portions of its Opposition to Cisco's
18 Motion to Exclude Expert Testimony from Arista's Expert Cate M. Elsten.

19 4. Good cause supports sealing those portions of Arista's Opposition to Cisco's
20 Motion to Exclude Expert Testimony from Arista's Expert Cate M. Elsten because they discuss
21 and disclose internal, non-public information regarding competitive intelligence and Arista sales
22 strategies, including specific information pertaining to particular Arista customers and their non-
23 public product requirements and internal marketing and technical documents discussing Arista's
24 competitive advantages. *See In re Elec. Arts, Inc.*, 298 F. App'x 568, 569–70 (9th Cir. 2008);
25 *Delphix v. Actifio*, No. 13-cv-04613, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014);
26 *Koninklijke Philips v. Elec-Tech Int'l*, No. 14-cv-02737, 2015 WL 581574, at *1–2 (N.D. Cal.
27 Feb. 10, 2015); *see also Schwartz v. Cook*, No. 5:15-cv-03347, 2016 WL 1301186, at *2 (N.D.
28 Cal. April 4, 2016) (discussing the harm that could result by the dissemination of similar sensitive

1 internal business information to competitors, who would find it valuable). Arista also believes
2 that its actual and prospective customers expect that information relating to their purchasing
3 preferences and transactions is maintained in the utmost confidence. Good cause—and also
4 compelling reasons—justify sealing these portions of Ms. Elsten’s report.

5 5. Arista does not seek to seal any other portions of its Opposition to Cisco’s Motion
6 to Exclude Expert Testimony from Arista’s Expert Cate M. Elsten. Arista has redacted other
7 portions of its brief because Cisco designated that information “Highly Confidential.”

8 6. Arista does not seek to seal any portion of Exhibit A to the Declaration of Eduardo
9 E. Santacana in Support of Arista’s Opposition to Cisco’s Motion to Exclude Expert Testimony
10 from Arista’s Expert Cate M. Elsten. Arista has filed that document under seal in its entirety
11 because Cisco designated it “Highly Confidential.”

12 Executed August 19, 2016, at San Francisco, California.

13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct.
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19 EDUARDO E. SANTACANA